

Message Text

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11
ACTION L-03

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FM AMEMBASSY MONTEVIDEO
TO SECSTATE WASHDC 2069

LIMITED OFFICIAL USE MONTEVIDEO 3278

E.O. 11652: N/A
TAGS: PFOR, UY, US
SUBJECT: US-GOU EXTRADITION TREATY

REF: (A) STATE 109563, (B) SACCONC-OLSON MEMCON OF JULY 21, 1976

1. AMBASSADOR ALVAREZ, FONOFF DIRECTOR OF FOREIGN POLICY, CALLED EMBOFF TO MINISTRY SEPTEMBER 2 TO DISCUSS US-GOU EXTRADITION TREATY. ALVAREZ SAID BOTH EXECUTIVE AND LEGISLATURE WANT TREATY, BUT THAT LEGISLATORS BALKING AT WHAT THEY CONSIDER INADEQUATE GUARANTEES THAT US WOULD NOT APPLY DEATH PENALTY IN EXTRADITION CASES. HE SAID PRESENT SENSITIVITIES ON HUMAN RIGHTS ISSUES ARE RESPONSIBLE IN THAT COUNCILORS OF STATE (AND, HE IMPLIED THE EXECUTIVE) WERE PARTICULARLY CONCERNED OVER THE POSSIBILITY, HOWEVER REMOTE, THAT URUGUAY MIGHT EXTRADITE SOMEONE AND THE US EXECUTE HIM. IF THAT WERE TO OCCUR, CRITICS OF THE REGIME WOULD ACCUSE THE GOU NOT ONLY OF ONGOING HUMAN RIGHTS VIOLATIONS, BUT ALSO OF GOING COUNTER TO ITS DECADES-OLD NO CAPITAL PUNISHMENT PHILOSOPHY AND SENDING PEOPLE TO THE U.S. FOR EXECUTION.

2. ARGUMENTS THAT THE PRESENT TREATY PROVIDES SUFFICIENT GUARANTEES AGAINST ANY SUCH POSSIBILITY WERE OF NO WHERE AVAIL WITH ALVAREZ THAN THEY HAD BEEN WITH SOME COUNCILORS OF STATE. MOST LEGISLATORS SEEMED TO ACCEPT NOT ONLY THE TREATY, BUT ALSO SUPPORTING ARGUMENTS SUCH AS THOSE MENTIONED IN PARA 2 OF MONTEVIDEO 1623. HOWEVER, THE NUCLEUS OF DOUBTERS APPARENTLY IS STRONG ENOUGH TO HAVE CONVINCED FONOFF THAT TREATY IN PRESENT FORM WILL NOT WIN APPROVAL.

3. GIVEN CIRCUMSTANCES ALVAREZ ASKED EMBOFF TO SUBMIT TO THE LIMITED OFFICIAL USE

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DEPARTMENT LANGUAGE WHICH WOULD REPLACE THE PRESENT ARTICLE 7 OF

THE TREATY. THE PROPOSED LANGUAGE FOLLOWS:

"ARTICULO 7 - CUANDO EL DELITO POR EL QUE SE SOLICITE LA EXTRADICION FUERA PUNIBLE CON LA PENA DE MUERTE SEGUN LA LEGISLACION DE LA PARTE REQUIRRENTE, Y LAS LEYES DEL ESTADO REQUERIDO NO ADMITIERAN ESA PENA PARA ESE DELITO, ESTE ULTIMO PODRA SUPEDITAR EL OTORGAMIENTO DE LA EXTRADICION A CONDICION DE QUE TAL PENA SERA CONMUTADA POR PRISION POR LOS ORGANOS COMPETENTES.

4. ALVAREZ SAID GOU WOULD BE WILLING TO ALTER ARTICLE 7 BY SIMPLE EXCHANGE OF NOTES IF USG AGREES. IF NOT HE SAID COUNCIL OF STATE COULD BE EXPECTED TO UNILATERALLY ATTACH A RESERVE CLAUSE DURING RATIFICATION PROCESS.

5. EMBOFF TOLD ALVAREZ HE CONSIDERED PROTECTION AFFORDED BY TREATY TO BE ADEQUATE, AS DID FONOFF LAWYERS, AND THAT PROPOSED CHANGE WAS MORE COSMETIC THAN SUBSTANTIVE. NEVERTHELESS, HE SAID EMBASSY WOULD SEEK DEPARTMENT'S GUIDANCE AS TO HOW TO PROCEED. SIRACUSA

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